

ASSEMBLY BILL

No. 1444

Introduced by Assembly Member Bates

(Coauthors: Assembly Members Benoit, Bogh, Daucher, Dutton, Harman, Shirley Horton, Keene, La Malfa, La Suer, Leslie, Maddox, Maldonado, McCarthy, Mountjoy, Plescia, Runner, Spitzer, and Strickland)

February 21, 2003

An act to amend Section 296 of the Penal Code, relating to crimes.

LEGISLATIVE COUNSEL'S DIGEST

AB 1444, as introduced, Bates. Forensic identification.

Existing law requires felony sex offenders to provide DNA samples to the Department of Justice for inclusion in the DNA and Forensic Identification Data Base. A failure to provide the samples is a misdemeanor.

This bill would expand the scope of this requirement by applying it to any person convicted of any sex offense. By expanding the scope of persons subject to existing crimes and by increasing the duties of local officials, this bill would impose a state-mandated local program.

The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement, including the creation of a State Mandates Claims Fund to pay the costs of mandates that do not exceed \$1,000,000 statewide and other procedures for claims whose statewide costs exceed \$1,000,000.

This bill would provide that with regard to certain mandates no reimbursement is required by this act for a specified reason.

With regard to any other mandates, this bill would provide that, if the Commission on State Mandates determines that the bill contains costs so mandated by the state, reimbursement for those costs shall be made pursuant to the statutory provisions noted above.

Vote: majority. Appropriation: no. Fiscal committee: yes. State-mandated local program: yes.

The people of the State of California do enact as follows:

1 SECTION 1. Section 296 of the Penal Code is amended to
2 read:

3 296. (a) (1) Any person who is convicted of any of the
4 following crimes, or is found not guilty by reason of insanity of
5 any of the following crimes, shall, regardless of sentence imposed
6 or disposition rendered, be required to provide two specimens of
7 blood, a saliva sample, right thumbprints, and a full palm print
8 impression of each hand for law enforcement identification
9 analysis:

10 (A) Any offense or attempt to commit any ~~felony~~ offense
11 described in Section 290, or any ~~felony~~ offense that imposes upon
12 a person the duty to register in California as a sex offender under
13 Section 290.

14 (B) Murder in violation of Section 187, 190, 190.05, or any
15 degree of murder as set forth in Chapter 1 (commencing with
16 Section 187) of Title 8 of Part 1 of the Penal Code, or any attempt
17 to commit murder.

18 (C) Voluntary manslaughter in violation of Section 192 or an
19 attempt to commit voluntary manslaughter.

20 (D) Felony spousal abuse in violation of Section 273.5.

21 (E) Aggravated sexual assault of a child in violation of Section
22 269.

23 (F) A felony offense of assault or battery in violation of Section
24 217.1, 220, 241.1, 243, 243.1, 243.3, 243.4, 243.7, 244, 245,
25 245.2, 245.3, or 245.5.

26 (G) Kidnapping in violation of subdivisions (a) to (e),
27 inclusive, of Section 207, or Section 208, 209, 209.5, or 210, or an
28 attempt to commit any of these offenses.

29 (H) Mayhem in violation of Section 203 or aggravated
30 mayhem in violation of Section 205, or an attempt to commit either
31 of these offenses.



1 (I) Torture in violation of Section 206 or an attempt to commit
2 torture.

3 (J) Burglary as defined in subdivision (a) of Section 460 or an
4 attempt to commit this offense.

5 (K) Robbery as defined in subdivision (a) or (b) of Section
6 212.5 or an attempt to commit either of these offenses.

7 (L) Arson in violation of subdivision (a) or (b) of Section 451
8 or an attempt to commit either of these offenses.

9 (M) Carjacking in violation of Section 215 or an attempt to
10 commit this offense.

11 (N) Terrorist activity in violation of Section 11418 or 11419, or
12 a felony violation of Section 11418.5, or an attempt to commit any
13 of these offenses.

14 (2) Any person who is required to register under Section 290
15 because of the commission of, or the attempt to commit, ~~a felony~~
16 *an* offense specified in Section 290, and who is committed to any
17 institution under the jurisdiction of the Department of the Youth
18 Authority where he or she was confined, or is granted probation,
19 or is or was committed to a state hospital as a mentally disordered
20 sex offender under Article 1 (commencing with Section 6300) of
21 Chapter 2 of Part 2 of Division 6 of the Welfare and Institutions
22 Code, shall be required to provide two specimens of blood, a saliva
23 sample, right thumbprints, and a full palm print impression of each
24 hand to that institution or, in the case of a person granted probation,
25 to a person and at a location within the county designated for
26 testing.

27 (b) The provisions of this chapter and its requirements for
28 submission to testing as soon as administratively practicable to
29 provide specimens, samples, and print impressions as described in
30 subdivision (a) shall apply regardless of placement or confinement
31 in any mental hospital or other public or private treatment facility,
32 and shall include, but not be limited to, the following persons,
33 including juveniles:

34 (1) Any person committed to a state hospital or other treatment
35 facility as a mentally disordered sex offender under Article 1
36 (commencing with Section 6300) of Chapter 2 of Part 2 of
37 Division 6 of the Welfare and Institutions Code.

38 (2) Any person who has a severe mental disorder as set forth
39 within the provisions of Article 4 (commencing with Section
40 2960) of Chapter 7 of Title 1 of Part 3 of the Penal Code.

(3) Any person found to be a sexually violent predator pursuant to Article 4 (commencing with Section 6600) of Chapter 2 of Part 2 of Division 6 of the Welfare and Institutions Code.

(c) The provisions of this chapter are mandatory and apply whether or not the court advises a person, including any juvenile, that he or she must provide the databank and database specimens, samples, and print impressions as a condition of probation, parole, or any plea of guilty, no contest, or not guilty by reason of insanity, to any of the offenses described in subdivision (a).

(d) At sentencing or disposition, the prosecuting attorney shall verify in writing that the requisite samples are required by law, and that they have been taken, or are scheduled to be taken before the offender is released on probation, or other scheduled release. However, a failure by the prosecuting attorney or any other law enforcement agency to verify sample requirement or collection shall not relieve a person of the requirement to provide samples.

(e) (1) The abstract of judgment issued by the court shall indicate that the court has ordered the person to comply with the requirements of this chapter and that the person shall be included in the state's DNA and Forensic Identification Data Base and Data Bank program and be subject to this chapter. ~~However, failure~~

(2) *Failure* by the court to enter these facts in the abstract of judgment shall not invalidate a plea, conviction, or disposition, or otherwise relieve a person from the requirements of this chapter.

SEC. 2. No reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution for certain costs that may be incurred by a local agency or school district because in that regard this act creates a new crime or infraction, eliminates a crime or infraction, or changes the penalty for a crime or infraction, within the meaning of Section 17556 of the Government Code, or changes the definition of a crime within the meaning of Section 6 of Article XIII B of the California Constitution.

However, notwithstanding Section 17610 of the Government Code, if the Commission on State Mandates determines that this act contains other costs mandated by the state, reimbursement to local agencies and school districts for those costs shall be made pursuant to Part 7 (commencing with Section 17500) of Division 4 of Title 2 of the Government Code. If the statewide cost of the claim for reimbursement does not exceed one million dollars

1 (\$1,000,000), reimbursement shall be made from the State
2 Mandates Claims Fund.

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